

APPENDIX D

Definitions

I. Introduction

The question for DOE is which definitions to include in the next *Federal Register* Notice on Section 180(c) policy and what those definitions should be. The *1998 Draft Policy* had two definitions: “Technical Assistance” and “Safe Routine Transportation.” The Topic Group recommends adding a definition of “Public Safety Official” to help clarify that hospital personnel could be eligible for Section 180(c) training.

II. Background

The primary decision for DOE regarding definitions is whether to include a definition of Public Safety Official in the next *Federal Register* Notice on Section 180(c) policy. The Topic Group felt strongly that hospital personnel are responsible for public safety and would be involved in treating people injured in an accident involving spent nuclear fuel and high-level radioactive waste. Therefore, hospital personnel should be eligible to receive training with Section 180(c) funds. In contrast, DOE’s Office of General Counsel has stated that hospital personnel would *not* be eligible for Section 180(c) funds. The issue was not addressed in the *1998 Draft Policy*.

This discussion may be moot with the publication of the *National Response Plan* in December 2004. In one of its many purposes, this document governs Federal support to state, local, and tribal authorities. DOE is a signatory to this document, committing DOE to the terms and conditions of the NRP. According to the NRP, “emergency response provider”

“includes Federal, State, local, and tribal emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.” (See section 2(6), Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135 (2002).)

In addition, several Federal programs have historically included hospital personnel in their training programs and in their definitions of emergency responders. For example:

- 1) The Department of Homeland Security treats hospital emergency personnel and facilities as “emergency response providers”, as defined in the Homeland Security Act of 2002 (PL 107-296). This definition has now been adopted as the NRP’s definition of first responder. (See above.)
- 2) The HMEP program does not define public safety official specifically but rather requires that hazardous materials transportation training be distributed through the Local Emergency Planning Committees which it defines as:
“a committee appointed by the State Emergency Response Commission under section 301(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001(c)) that includes at a minimum,

representatives from each of the following groups or organizations: elected state and local officials; law enforcement, firefighting, civil defense, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the emergency planning requirements.”

- 3) The Occupational Safety and Health Administration (OSHA) states that hospital personnel are required to receive training based on the duties and function they are expected to perform during an emergency¹. This would vary according to the assigned duties and functions that each jurisdiction assigns its emergency response personnel.
- 4) The definition of public safety official from the *Draft Strategy for OCRWM to Provide Training Assistance to State, Tribal and Local Governments* (January 1992):
" Public Officials are any officials at the State, Tribal, or local level of government, including fire fighters, law enforcement officers, medical technicians, and State or Tribal Hazardous Materials (HAZMAT) responders, who are involved with and support the transportation of spent nuclear fuel and high-level radioactive waste through their jurisdictions."

Finally, DOE programs have experience in training hospital personnel. The WIPP program provides for training to both the emergency medical technicians and paramedics who may respond to an incident scene, and the hospital emergency room personnel who may be required to handle and treat incident victims. DOE has contracted with two companies that offer courses for physicians and nurses in handling radiation incidents: The Oak Ridge Institute for Science & Education (ORISE) Radiation Emergency Assistance Center/Training Site (REAC/TS) and Radiation Management Consultants.

III. Options Considered

Definition of Public Safety Official:

The definition of public safety official generated the most discussion – whether or not to include hospital personnel. There were no arguments presented *against* the inclusion of hospital personnel. The arguments in support are as follows:

- There is precedent from the Waste Isolation Pilot Program for DOE to provide funding for training hospital personnel.
- The definition of emergency responder in the National Response Plan, at the Department of Homeland Security, and elsewhere in the Federal Government includes hospital personnel in their definition.
- HMEP, which has served as a model for Section 180(c), allows medical personnel to be trained with its grants.
- Emergency Medical Technicians (EMTs), eligible for training under the 1998 *Draft Policy*, are certified by the hospitals that sponsor them, not the fire

¹ OSHA Letters of Interpretation,

department to which they are assigned. It would be difficult for hospital personnel to provide medical supervision to EMTs when the hospital personnel have not received the same level of training.

- Training hospital personnel about SNF and HLW shipments creates the same assurance as training fire fighters and law enforcement for DOE – namely, that in case of an accident, the response will be appropriate and informed.
- One question that arose was whether personnel from private hospitals would be considered public safety officials. The NRP definition refers to “... related personnel ...” which may include private sector employees involved in an emergency response. DOE will discuss this further when the *Federal Register* Notice enters the concurrence process.

Definition of Safe Routine Transportation:

The Topic Group recommended expanding the definition of Safe Routine Transportation from the *1998 Draft Policy*. They requested that the definition encompass the agreements and policies that contribute to Safe Routine Transportation, similar to the protocols developed for other DOE shipping programs. This position is supported by the Secretary of Energy’s May 16, 2002, testimony to the Senate Committee on Energy and Natural Resources. He endorsed the development of such agreements, saying that he envisioned OCRWM using the same type of process that WIPP used to negotiate its protocols.

On the other hand, adding “policies and agreement” to the definition may give the phrase a broader meaning than was intended in the NWPA. While the NWPA does not expand upon the definition of “safe routine transportation,” it also does not limit it.

Definition of Technical Assistance:

The Topic Group’s recommended definition of Technical Assistance has minor modifications from the definition in the *1998 Draft Policy*. There was little discussion about expanding or changing this definition. The group’s research did not find additional information or changes in Federal policy that would significantly change the definition in the *1998 Draft Policy*.

IV. Recommendations to Management

The Topic Group recommends including a definition of public safety official as written below. In addition, the Topic Group recommends minor changes to the definitions of Technical Assistance and Safe Routine Transportation. The recommended changes are provided in redline/strikeout.

1) Public Safety Official

“Public Safety Officials are state, tribal, and local personnel who are involved with emergency public safety, inspection and enforcement, emergency response, emergency medicine (including hospital emergency services), and related personnel, agencies, and authorities.”

2) Technical Assistance

“Technical assistance means assistance, other than financial assistance, that the Secretary of Energy can provide that is unique to the Department to aid training that will cover procedures for the safe routine transportation and emergency response situations during the transport of spent nuclear fuel and high-level radioactive waste pursuant to the NWP. Technical assistance will include, but not be limited to, access to the Department’s regional and headquarters representatives involved in the planning and operation of NWP transportation or emergency preparedness, provision of information packets that include materials about the OCRWM program and shipments, and provision of training materials and information to insert into curricula. Recognizing the Federal Government’s government-to-government relationship with and Trust responsibility toward tribal nations, and in response to comments about the lack of hazardous materials response capability on some tribal lands, the Department will consider making additional technical assistance available to tribes upon request.”

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Deleted: the provision of training materials, the provision of public information materials, and access to individuals involved in the shipments.¶
¶ Technical assistance, as defined, will include

3) Safe Routine Transportation

“Safe routine transportation means the shipment of spent nuclear fuel and high-level radioactive waste pursuant to the NWP through state, tribal, and local jurisdictions in a manner compliant with applicable Federal, state, tribal, and local laws, regulations, policies, and agreements. Examples of these include:

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- Safe routine highway transportation is characterized by adequate vehicle, driver, and package inspection and enforcement of the U.S. Department of Transportation’s Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations, as well as the Commercial Vehicle Safety Alliance’s inspection procedures and out-of-service criteria as consistent with state requirements.
- Safe routine rail and barge transport is characterized by compliance with the Hazardous Materials Regulations, as well as rail and barge transportation policies and regulations, including those of the Federal Railroad Administration and Coast Guard.
- Safe routine transportation is also characterized by compliance with the Nuclear Regulatory Commission’s package certification and prenotification regulations and the Department of Energy’s applicable transportation requirements.

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